

1           A. "We think this is the right time to broadcast  
2 the problem in this company. We are hoping this  
3 problem will be addressed."

4           Q. Okay. Was this problem ever addressed,  
5 Mr. Vargas?

6           A. It was addressed at the moment, but I was not  
7 there.

8           Q. I'm sorry?

9           A. It was addressed at the moment because this is  
10 old case, but I was not there when that happened.

11          Q. Okay. When did you go to Los Angeles?

12          A. September.

13          Q. Of?

14          A. September -- September 1st, 2019.

15          Q. So that was a year later, right?

16          A. Yes.

17          Q. So within -- from August to -- August 2018 to  
18 September 2019, was there anything done about what was  
19 written here?

20          A. No, as I said before, the conversation with  
21 HR, because I was not aware of all this that was  
22 happening with Andrew, I had a conversation with HR  
23 where they -- where HR told me about what happened and  
24 what the final outcome of that investigation was.

25          Q. With regards to the investigation on the sleep

1 apnea, is that correct?

2 A. In regards to the issues that they were  
3 having -- that they are complaining about Andrew.

4 Q. Okay. So it says, "the way he supervised is  
5 very unprofessional when he run the operation or  
6 supervised." Anything that was done about that?

7 A. At the moment that I get there, I hadn't had  
8 any problem with Andrew. And I didn't get any  
9 complaint from any fueler in relation to Andrew.

10 Q. Did you talk to any of the fuelers about the  
11 way he supervises is very unprofessional and run the  
12 operation or supervise?

13 A. I'm sorry, no, I did not talk to any fuelers  
14 about the way he supervise.

15 Q. Do you know if Tracy or HR did that?

16 A. In the conversations we had, it wasn't  
17 specific about his performance in terms of OTP, which  
18 is operational -- on time performance, I'm sorry.

19 Q. And then it says -- okay. I'm sorry, I think  
20 we missed the last part. Did you say something there?

21 A. No.

22 Q. Okay. "People are not taking their breaks  
23 it's because the way he set up the flights." That one,  
24 did you ask about that? Was that something that was  
25 taken care of?

1                   A. Well, I didn't receive no complaints about  
2 people not taking the breaks. And I want to -- can  
3 I -- the policy that I have, when I manage people, is  
4 really open. And what I do is I always invite people,  
5 when they have issues, to talk about the problems they  
6 have. The moment that I raised all those points with  
7 people, I never would receive no complaints from no  
8 fueler in relation to Andrew's performance.

9                   Q. Okay. But if you see the second page there of  
10 this petition, they did. They did come forward, right?  
11 Because you have 25, 26 people signing.

12                   If you have an open-door policy about letting  
13 you know about the complaint, wasn't this what these  
14 people are doing? I don't see how --

15                   MR. WU: Objection. Lack of foundation.  
16 Misstates prior testimony.

17                   You can answer if you understand the question.

18                   THE WITNESS: I think that that question I already  
19 answered.

20                   MR. URIARTE: Q. Which is you don't believe that  
21 these people were really complaining?

22                   A. We have people feel harassed to sign this  
23 petition.

24                   Q. So you feel every one of these people were  
25 harassed to sign this petition, is that correct?

1 Q. And then did HR give you recommendation with  
2 regards to other options available aside from  
3 termination?

4 A. Well, the recommendation -- the recommendation  
5 from HR was not to terminate him.

6 Q. And you didn't follow that?

7 A. No, actually, I asked why those  
8 recommendations, which I think it's normal procedure.

9 Q. So you're saying you asked the recommendation  
10 from HR, and then what did HR say?

11 A. That based on the -- on the recommendation and  
12 the conversation they had with the director, they're  
13 recommending not to terminate, but it was just -- I'm  
14 sorry, that it was just a recommendation, I'm sorry.

15 Q. Okay. So HR's recommendation is not to  
16 terminate, right?

17 A. Yes.

18 Q. But you did not follow that, right?

19 A. No, because I -- I needed to see the final  
20 outcome of the investigation to take the right  
21 decision.

22 Q. And what did you see in the final outcome that  
23 made you conclude that termination was the right  
24 action?

25 A. I get the final outcome from safety department

1 with the statements, plus the messages from Navarro to  
2 Andrew, plus, well, the letter with the petition, the  
3 call from the union in that there is somebody  
4 instigating the people to sign this petition.

5 Q. Okay. Weren't there other options available?

6 MR. WU: Objection. Vague.

7 You can answer.

8 THE WITNESS: There are always different options.

9 MR. URIARTE: Q. Did you consider those options?

10 A. I think the harassment for me is -- is very  
11 important. I need to look into the environment for all  
12 the employees and not just one.

13 Q. Okay.

14 A. And I think that is important that this person  
15 was supervisor.

16 Q. So you're saying the harassment is so  
17 important that that was like a very big part of why you  
18 decided to terminate. That's what you're saying?

19 A. Yes.

20 Q. So what did you learn -- what if you learned  
21 that harassment was also going on between Andrew Dodge  
22 and the fuelers, would that be enough to terminate  
23 Andrew Dodge?

24 MR. WU: Objection. Improper hypothetical. Lacks  
25 foundation.

1                   You can answer.

2                   THE WITNESS: We investigated everything.

3                   Everything -- we need to investigate everything to look  
4                   into how that is affecting the employees.

5                   MR. URIARTE: Q. Right. I know you have to  
6                   investigate. I guess my hypothetical is more, if you  
7                   learned that harassment was actually going on between  
8                   Andrew Dodge and his fuelers, then it would lead to the  
9                   conclusion that he should be terminated, too, right?

10                  MR. WU: Same objection.

11                  MR. URIARTE: Q. Is that correct, Mr. Vargas?

12                  A. It is. I protect the team.

13                  Q. I was looking at some of your corporate  
14                  documents with regards to handbooks and HR materials  
15                  and all that. And there's this thing called  
16                  progressive discipline. Were you aware of that?

17                  A. Yes, I am.

18                  Q. Okay. And why is it that you did not use  
19                  progressive discipline in this situation?

20                  A. Because there are cases that they're severe,  
21                  and then that's one of the outcome of the  
22                  investigation.

23                  Q. So it's like serious enough to terminate?

24                  A. Yes.

25                  Q. Is that a yes?

1           A. Yes, it is a yes.

2           Q. Okay. And then did you ask or were you  
3 curious, maybe you should have had a conversation with  
4 Mr. Navarro?

5           A. I don't participate in the investigations.

6           Q. Maybe like a phone call to Mr. Navarro to get  
7 his side of the story?

8           A. No, I do not. I do not participate in any  
9 investigation.

10          Q. And do you know whether or not they actually  
11 talked to Mr. Navarro and got his side of the story?

12          A. I just get the final outcome.

13          Q. You just get the final decision?

14          A. The final outcome for -- from the  
15 investigation.

16          Q. My question is different. My question is when  
17 you were looking at all the different elements to  
18 decide whether to terminate or not, did you try to find  
19 out whether somebody talked to Mr. Navarro to get his  
20 side of the story?

21          A. No, I did not. I did not try to find out.

22          Q. Would you say that's kind of like basic  
23 investigation right there?

24          MR. WU: Objection. Lack of foundation. Improper  
25 hypothetical.

1                   You can answer if you know.

2                   THE WITNESS: I won't say that is -- it all  
3 depends on the kind of investigation they're running.

4                   MR. URIARTE: Q. They -- what's the last word?

5                   A. They are running.

6                   Q. That they are running. Okay. But you didn't  
7 look into what kind of investigation they were running?

8                   A. I just look into the final outcome of the  
9 investigation.

10                  Q. And you never, like, got into your head and  
11 said, what does Mr. Navarro say about all of this?  
12 That's not something that you ever asked yourself?

13                  A. No, I do not. I do not because I just look  
14 into the final outcome of the investigation. So I  
15 think that that question is for the people who perform  
16 the investigation.

17                  Q. So you said earlier that the goal of  
18 terminating Mr. Navarro was to protect the employees  
19 from the harassment, right? The environment of  
20 harassment, correct?

21                  A. Yes.

22                  Q. How is it different, in achieving that goal,  
23 how is termination different from, let's say, a  
24 suspension?

25                  A. Well, I think that is important, too, if you

1 find out that there is a harassment in the -- in the  
2 crew and in the environment, then the only way for you  
3 to ensure that we remove that harassment from the  
4 environment is to remove the person who is doing the  
5 harassment. In that every case is different, but when  
6 you have three people complaining about it, and at the  
7 same time you have a petition involving another  
8 employee which you're trying to achieve by harassing  
9 people is -- is not good.

10 Q. Okay. But the part about that that needs a  
11 little bit of explanation is you have this -- you say  
12 at the same time you have this petition, but what about  
13 the people that actually wrote the petition, right? So  
14 they have a concern, right? So --

15 A. Well, we go back to the same -- to the same  
16 conversations we had before, of the petition, when you  
17 have somebody that is pushing somebody to sign a paper  
18 that they don't even know what it's for.

19 Q. Right. For those three people, right?

20 A. Could be one, two, three, I don't know.

21 Q. Now, in your emails, you mentioned July or  
22 Julie Macapagal, it M-a-c-a-p-a-g-a-l. Actually, the  
23 name of an old Filipino president. July Macapagal.  
24 Does that name sound familiar to you?

25 A. He's also part of a supervisor crew.

1 Q. Was an investigation ever conducted?

2 A. Well, I investigate. I saw the name of the  
3 person that it was on that list. And I request to open  
4 an investigation about that person.

5 Q. Was an investigation opened?

6 A. Yeah, but because I needed to know if this  
7 supervisor was also -- was also harassed to sign  
8 this -- this petition.

9 Q. Okay. And what was the result of the  
10 investigation?

11 A. That he was.

12 Q. I'm sorry?

13 A. That he was. He was also intimidated to sign  
14 the paper.

15 Q. I'm unclear about that. What is that --  
16 that's a person, a guy, right? A male?

17 A. Yes.

18 Q. He's a guy.

19 A. Yes.

20 Q. So what was -- what was Mr. Macapagal -- what  
21 did Mr. Macapagal do?

22 A. He's a supervisor.

23 Q. Yeah, and he signed the petition, correct?

24 A. The petition, yes.

25 Q. And then what was the result of the

1 investigation on Mr. Macapagal?

2 A. That he was forced to sign that paper.

3 Q. That he was forced to sign the paper, is that  
4 correct?

5 A. Yes.

6 Q. You talked to Mr. Macapagal?

7 A. No, I did not.

8 Q. Okay. So who gave you the results of the  
9 investigation?

10 A. Safety department. It was a conversation we  
11 had.

12 Q. Over the telephone?

13 A. No, person to person.

14 Q. Who in the safety department?

15 A. Kevin Blumberg.

16 MR. URIARTE: Let me get you, before we forget, so  
17 it's Kevin Blumberg, B-l-u-m-b-e-r-g. All right.

18 Q. So he told you that Mr. Macapagal told him  
19 that he was forced to sign the petition, is that  
20 correct?

21 A. Yes.

22 Q. Did you review the termination notice before  
23 it was issued?

24 A. No, I did not.

25 MR. URIARTE: I just want to make sure we're clear

1 on this. Exhibit 9, please, David. Thank you.

2 (Plaintiff's Exhibit 9 marked for  
3 identification.)

4 MR. URIARTE: So if you could just scroll all the  
5 way, David, so Mr. Vargas can see the whole document.  
6 So this will be Exhibit 9. This is "Notice to  
7 Employees as to Change in Relationship" dated August  
8 29, 2018. I'm good with my word with regard to the  
9 date there, even though Jason did not want to go with  
10 me on it.

11 Q. So do you see that, Mr. Vargas?

12 A. Yes, I see that.

13 Q. Okay. So you didn't see this document before  
14 it was issued?

15 A. I don't recall it, but it looks like the first  
16 time that I see this document.

17 Q. No problem. And then when it says "Code of  
18 Conduct," does that mean anything to you?

19 A. Yeah.

20 Q. What does that mean to you?

21 A. It means that the person was not conducting  
22 correctly.

23 Q. Okay. And specifically what was he not  
24 conducting correctly?

25 A. He was forcing people to sign a petition.

1 Q. Okay. Anything else that he wasn't doing  
2 correctly?

3 A. I think that is enough for me.

4 Q. I'm just trying to complete things, so I'm  
5 sorry I keep saying, "Anything else? Anything else?"  
6 I'm just making sure it's complete.

7 So aside from him forcing people to sign the  
8 petition, anything else that might have caused him to  
9 violate code of conduct, or was that it?

10 A. I think that -- I think that -- well, no,  
11 nothing -- well, but the reason why we terminate --

12 Q. Yeah.

13 A. -- because of forcing people to sign a  
14 petition.

15 MR. URIARTE: Gotcha. Okay.

16 And then could we have Exhibit 11, please.

17 (Plaintiff's Exhibit 11 marked for  
18 identification.)

19 MR. URIARTE: Q. So here's Exhibit 11. This one  
20 was given to us by your lawyers as well. It's Menzies  
21 95, if you look on the bottom.

22 A. Can you repeat that.

23 Q. I'm sorry?

24 A. Can you repeat it, please.

25 Q. Sure. So this is Exhibit 11. This is a

1 Q. All right. And here it says this option, I  
2 guess, would have placed Mr. Navarro on final warning  
3 for unprofessional conduct of a supervisor, right? Do  
4 you see that?

5 A. Yes.

6 Q. And it says "distributing a petition and  
7 disruption of the workforce." Do you see that?

8 A. Yes, I do see it.

9 Q. And then it says, "You are being placed on a  
10 Final Warning which is your last and final opportunity  
11 to" -- we don't know. I'm thinking it's like "change  
12 your behavior," maybe. I don't know. We don't know  
13 that. And then, "Any infraction, no matter how minor  
14 in any of the 4 categories of Attendance, Conduct,  
15 Safety or Work Performance, may result in your  
16 immediate discharge." Do you see that?

17 A. Yes, I see that.

18 Q. And then the Final Warning box is marked.

19 A. Uh-huh. Yes.

20 Q. Okay. And then if you see a little bit down,  
21 just to make sure, there's no signature because it was  
22 not used, presumably, correct? So my question about  
23 this document is what's wrong with this option,  
24 Mr. Vargas?

25 MR. WU: Objection. Improper hypothetical. Lacks

1 foundation.

2 THE WITNESS: I think that, based on the  
3 investigation we come up with, this was not the option,  
4 the right option for me at that moment.

5 MR. URIARTE: Q. Thinking about it now and  
6 knowing a little bit more about the situation?

7 A. I already had final outcome of the  
8 investigation. Make sure I need to have the right -- I  
9 need to take the right decision.

10 Q. You still think it's the right decision then,  
11 Mr. Vargas?

12 A. I do believe that it was the right decision,  
13 and that's why I took it. And you can tell when I  
14 asked Tracy on -- in terms of her recommendation,  
15 because I needed to ensure that we had all information  
16 available to take the right decision moving forward.

17 Q. Okay. I guess I would have to ask, though,  
18 don't you think that a final warning, one more little  
19 mistake, may have resulted in the same outcome for you  
20 in your goal of eliminating harassment? Because your  
21 goal is to eliminate harassment.

22 A. Yes.

23 Q. And a final warning like this --

24 MR. WU: Improper -- sorry, I didn't know if you  
25 were done with your question. I don't mean to cut off

1 your question, Arlo.

2 MR. URIARTE: It's okay, Jason. Go ahead with  
3 your objection.

4 MR. WU: The objection is improper hypothetical  
5 and lack of foundation.

6 MR. URIARTE: Q. Mr. Vargas?

7 A. I'm sorry, but I don't know. That's the  
8 reason why I'm thinking about risk, I need to ensure  
9 that we can reduce the risk as much as we can. So  
10 since I don't know what's going to happen with a  
11 warning, the way for me to reduce the risk is  
12 terminating the person.

13 Q. Go ahead.

14 A. With enough documentation to support that  
15 decision.

16 Q. Right. And for you the documentation is the  
17 conclusion of the security people, right? And then the  
18 statement of the three people that you're talking  
19 about.

20 A. Do you want me to go through it?

21 Q. No, no, we've gone through it. Don't worry  
22 about it. But that's your position, you felt like you  
23 had enough documentation to do a termination?

24 A. Yes.

25 Q. And you're avoiding the risk. Now, the risk

1 Q. Okay. So at this point did you think that you  
2 needed to investigate more?

3 A. Yes, definitely, because she was not answering  
4 my question on that -- at that point.

5 Q. Okay. Very good. All right. And then if we  
6 go up a little bit. So here is your response, I guess,  
7 August 29 at 5:01 p.m. And you kind of made the  
8 decision to terminate Mr. Navarro, correct?

9 A. Yes.

10 Q. So in the hour between 4:04 p.m. and 5:01  
11 p.m., what additional investigation occurred?

12 A. Well, we had a -- we had a conversation with  
13 HR also, and I reviewed all the documentation in terms  
14 of what the outcome of the investigation was. And at  
15 that point I took the decision to terminate Mr.  
16 Navarro.

17 Q. Okay. Anything else that you did in that  
18 hour?

19 A. Well, we talked -- as I say, we talked with  
20 HR, talked about the case. We collected all the  
21 documentation, put all the documentation together. And  
22 then we took the right -- the last decision, and that's  
23 why I send that email to HR.

24 Q. At this point you were not provided a document  
25 with regard to the final warning, right? You didn't

1 review that at this point?

2 A. No, I did not. That's HR. And I think that  
3 is also important to remember -- it's important to  
4 remark that HR take decisions -- decisions in terms  
5 of --

6 Q. In terms of?

7 A. The person.

8 Q. HR made decisions in terms of the person, you  
9 said?

10 A. Of the person, exactly.

11 Q. And what do you mean by that?

12 A. Because they look into everything that you're  
13 saying, or they take a look to the seniority of the  
14 person, that this person is being 15 years at the  
15 company, so they look on the -- on the recommendation  
16 of the document, warnings and all that, and then, based  
17 on that, they gave a recommendation.

18 Now, we, as directors, we look into the more  
19 open situation of -- in terms of the whole operation,  
20 how this will affect the rest of the employees. And  
21 during that -- during that meeting, of course, we  
22 agreed on -- on a final termination for Mr. Navarro.

23 Q. And when you say "agreed," who actually agreed  
24 with you?

25 A. HR.

1 Q. Meaning Talin and Tracy?

2 A. Yes. So then Tracy agreed because she had a  
3 conversation with Talin, so we all agreed on -- on this  
4 termination.

5 MR. URIARTE: Okay. Why don't we take a  
6 five-minute break and then we'll be right back. Thank  
7 you.

8 MR. WU: All right.

9 (Brief recess.)

10 MR. URIARTE: Okay, Mr. Vargas, it looks like I  
11 have no further questions for you today.

12 THE WITNESS: Okay.

13 MR. WU: And I have just a few questions for you,  
14 Raul.

15 EXAMINATION BY MR. WU

16 MR. WU: Q. So, Raul, during the time you were  
17 the director of operations at SFO, aside from the  
18 petition, did you hear of any complaints that Andrew  
19 Dodge was harassing employees?

20 A. No, I did not.

21 Q. During the time you were the director of  
22 operations at SFO, aside from the petition, did you  
23 hear of any complaints that Andrew Dodge wasn't giving  
24 fuelers breaks?

25 A. No, I did not.

1 Q. During the time you were the director of  
2 operations at SFO, aside from the petition that we've  
3 already been discussing, did you hear any complaints  
4 that Andrew Dodge wasn't running the operation  
5 smoothly?

6 A. I did not.

7 Q. During the time you were director of  
8 operations at SFO, aside from the petition, have you  
9 heard any complaints about Andrew's job performance?

10 A. No, I did not.

11 Q. During the time you were the director of  
12 operations at SFO, did you ever hear of any grievance  
13 filed by the union against Andrew Dodge?

14 A. There is nothing on Andrew Dodge.

15                   MR. WU: Okay. I think that's all the questions I  
16 have on my end, Arlo, unless you have any further  
17 questions.

18                   MR. URIARTE: Yeah, let me just follow up with  
19 what you just said.

20 FURTHER EXAMINATION BY MR. URIARTE

21 MR. URIARTE: Q. Mr. Vargas, you said there was  
22 nothing on Andrew Dodge, right? One, two, three, four,  
23 five items there. You never heard anybody complaining  
24 about harassing him, you never heard that he was not  
25 giving breaks, you never heard that he was not running

1           Q. And when you say you do not recall, does that  
2 mean it could have happened or does that mean you  
3 didn't do it?

4           A. It means that I don't have anything documented  
5 that's important, and I don't recall having a  
6 conversation.

7           Q. Okay. What about with Tracy or with HR? Do  
8 you recall talking to them about all these different  
9 items?

10          A. We had a conversation, as I said, in terms of  
11 the investigation and in terms of what the letter --  
12 letter said about Andrew, as I explained it before, and  
13 nothing else on that.

14          MR. URIARTE: Okay. All right. Thank you.

15          THE WITNESS: Thank you.

16          MR. URIARTE: Thank you, Mr. Vargas.

17          MR. WU: Thank you very much for your time, Raul.  
18 We appreciate it.

19          THE WITNESS: Thank you very much.

20          MR. URIARTE: We'll stop the record.

21          (Whereupon, the concluded at 11:15  
22 o'clock a.m.)

23                            ---oo---

24

25

1 CERTIFICATE OF WITNESS

2 ---oo---

3

4 I, RAUL VARGAS, hereby declare under

5 penalty of perjury that I have read the foregoing

6 deposition testimony; and that the same is a true

7 and correct transcription of my said testimony

8 except as corrected pursuant to my rights under

9 Rule 30(e) of the Federal Rules of Civil

10 Procedure.

11

12 \_\_\_\_\_ Signature

13

14 \_\_\_\_\_ Date

15

16

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25

1 STATE OF CALIFORNIA )  
2 )  
3 COUNTY OF SAN FRANCISCO )

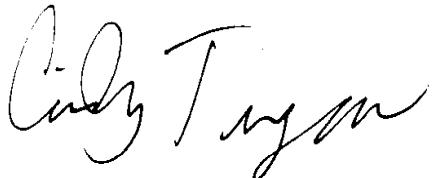
4 I, CINDY TUGAW, a Certified Shorthand Reporter  
5 of the State of California, duly authorized to  
6 administer oaths pursuant to Section 8211 of the  
7 California Code of Civil Procedure, do hereby certify  
that

8 RAUL VARGAS,  
9 the witness in the foregoing deposition, was by me duly  
10 sworn to testify the truth, the whole truth and nothing  
11 but the truth in the within-entitled cause; that said  
12 testimony of said witness was reported by me, a  
13 disinterested person, and was thereafter transcribed  
14 under my direction into typewriting and is a true and  
15 correct transcription of said proceedings.

16 I further certify that I am not of counsel or  
17 attorney for either or any of the parties in the  
18 foregoing deposition and caption named, nor in any way  
19 interested in the outcome of the cause named in said  
caption.

21 Dated the 10th day of September, 2020.

22  
23  
24  
25



CINDY TUGAW  
CSR No. 4805 (California)

1 Raul Vargas  
2 c/o Foley & Lardner  
3 555 California Street, Suite 1700  
4 San Francisco, CA 94104  
5 Attn: Jason Y. Wu, Esq.

6 Date: September 10, 2020  
7 Re: Navarro vs. Menzies  
8 Deposition Date: Tuesday, August 25, 2020

9 Dear Mr. Vargas,

10 Please be advised the original transcript of  
11 your deposition is ready for your review.

12 Pursuant to FRCP Rule 30(e), you have 30 days  
13 following the date of this notice to read, correct if  
14 necessary, and sign your transcript unless the  
15 attending parties and the deponent agree on the record  
16 or otherwise in writing to a longer or shorter time  
17 period. The deponent may change the form or the  
18 substance of the answer to a question, and may either  
19 approve the transcript of the deposition by signing it,  
20 or refuse to approve the transcript by not signing it.  
21 You are not required by law to read and sign your  
22 deposition transcript. All parties will be informed of  
23 the corrections. The original transcript will then be  
24 sealed and sent to the examining attorney pursuant to  
25 the applicable law.

26 You may either come to our office to read and  
27 sign the original transcript, or you may contact your  
28 attorney or the attorney who arranged for you to be  
29 present at your deposition. If they have ordered a  
30 copy of the transcript, you may review their copy and  
31 make corrections by submitting, signing and returning  
32 the attached form. If you choose to review your  
33 transcript at our office, please call first to make an  
34 appointment. Should you have any question regarding  
35 these instructions, please call.

36 Sincerely,

37  
38 NOGARA REPORTING SERVICE  
39 5 Third Street, Suite 415  
40 San Francisco, California 94103  
41 (415) 398-1889

42 cc: All counsel, original deposition